

MINUTES

WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Conference Meeting Room
Second Floor, Court House
Boonville, Indiana
January 24, 2007 at 6:00 P.M.

MEMBERS PRESENT: Larry Willis, Steve Gibson, Richard Medcalf, Eric Stahl, and Terry Dayvolt.

Also present were: Sherri Rector, Executive Director and Secretary; Morrie Doll, Attorney; Jaynann Hebner, staff.

MEMBERS ABSENT: William McCune and Don Motley.

MINUTES:

Larry Willis made a motion to approve the minutes from the Area Board of Zoning Appeals meetings held on September 27, 2006. The motion was seconded by Steve Gibson and unanimously carried.

ELECTION OF OFFICERS:

The meeting was called to order by the Executive Director as acting Chairman, roll call was taken with a quorum declared.

Nominations for Chairman of the Warrick County Area Board of Zoning Appeals to serve during 2007 were taken.

A motion was made by Steve Gibson to nominate Larry Willis to be appointed to serve as Chairman. The motion was seconded by Richard Medcalf and unanimously carried.

Steve Gibson made a motion to close the nominations and elect Larry Willis as Chairman by acclamation and the motion unanimously carried.

The Executive Director turned the meeting over to Larry Willis as Chairman.

The Chairman stated they need to elect the Vice-Chairman of the Warrick County Area Board of Zoning Appeals to serve during 2007.

A motion was made by Larry Willis to nominate Terry Dayvolt be appointed to serve as Vice-Chairman. The motion was seconded by Steve Gibson.

Steve Gibson made a motion to close the nominations and elect Terry Dayvolt as Vice-Chairman by acclamation. The motion was seconded by Larry Willis and unanimously carried.

SET MEETING DATE, TIME AND PLACE:

Mr. Willis asked if the Executive Director had a recommendation on setting the meeting date, time and place.

Mrs. Rector stated she recommends it stays the fourth Wednesday of each month at 6:00pm in the Commissioner's Meeting Room except for Monday, December 17th, 2007, instead of December 26th, 2007.

Steve Gibson made a motion to have the Board of Zoning Appeals meetings every fourth Wednesday of each month at 6:00PM except for Monday, December 17, 2007. The motion was seconded by Richard Medcalf and unanimously carried.

ADOPTION OF RULES AND REGULATIONS:

Mrs. Rector stated that there are no changes that have been made to the Rules and Regulations from last year.

Steve Gibson made a motion to adopt 2006 Rules and Regulations for 2007. The motion was seconded by Larry Willis and unanimously carried.

The Chairman explained the rules of procedure to the audience.

VARIANCES:

BZA-V-06-29 – Applicant: Dan Libbert Owners: Jeffrey & Pamela Gardner

Premises – Property located on the E side of SR 261 approximately 0' S of the intersection formed by SR 261 and Para Dr., Ohio Twp., 2666 SR 261.

Nature of Case – Applicant requests a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, Indiana, to allow an Improvement Location Permit to be issued for an addition to an existing building not meeting the minimum side yard requirements in a “C-3” Highway Commercial Zoning District. *Advertised in the Boonville Standard on December 7, 2006. Continued from December 18th meeting due to no quorum.*

The Chairman asked the Executive Director for a staff report.

Mrs. Rector stated they do have all the return receipts from certified mail to the adjacent property owners. She stated the applicant is requesting a variance to allow the construction of an addition to an existing business on an irregular shaped lot which will encroach over the building setback line and not meet the minimum side yard requirements. She stated that the required setback in a Commercial zoning is 5 feet and the plat plan submitted shows the proposed addition 2.14' from the south property line. She stated the property is approximately .40 acres zoned “C-3” Highway Commercial district. She stated the property to the North is zoned “R-1” Single Family with a residence and the property to the East is zoned “R-2” Multiple Family with a residence. She stated the property to the South is C-3 Highway Commercial with a business and property to the West is zoned C-4 General Commercial with a business and an R-1A single family with a residence. She stated the applicant states on the application that the addition is required for storage and due to Para Drive on the North side of the property there is not enough room for the addition. She stated there is no flood plain on the property and the application is in order.

The Chairman asked if the Petitioner had anything to add.

Bill Bivins approached the podium and identified himself as the engineer on the project and stated that the shape of the lot is the problem. He stated that this is the Paradise loop which also has a scooter business in it and the scooter business has expanded and they need more room to operate.

Mr. Dayvolt asked if this is on the South side of the old Hart Shell station. He asked if it was on the South side of that towards Schindler.

Mr. Bivins stated yes.

Mrs. Rector asked Mr. Bivins if the parking is in the front along Highway 261 so if they built out that way it would take away the parking off of the highway.

Mr. Bivins stated yes.

Mr. Willis asked for any further questions by Board Members. There being none he asked for any remonstrators. There being none he asked for any additional questions by Board Members.

Mr. Medcalf asked if the street that runs beside the property is 21 feet wide.

Mr. Bivins stated that it is Para Dr. on the North and they have a 50' right of way, but the asphalt is only 25' wide and its not in the center of the Right of Way, its basically on the South side of the Right of Way.

Mr. Medcalf asked if this building would end up on any of that Right of Way.

Mr. Bivins stated that no, they are going to put the addition on the South side.

Mr. Willis stated that it's going next to Schindler's Heating and Air Conditioning property.

Mr. Bivins stated that they're building 30-40 feet from the property line.

Mr. Metcalf stated that Schindler's has moved out on Telephone Road.

Mr. Willis asked if there were any other questions by Board Members. There being none he entertained a motion.

Terry Dayvolt made a motion the findings of facts be made as follows:

1. The grant of the Variance will not be injurious to the public health, safety, morals and general welfare of the community.
2. The use or value of the area adjacent to the property included in the Variance will not be adversely affected.
3. The need for the Variance arises from some condition peculiar to the property and does not exist in similar property in the same zone.
4. The strict application of the terms of the Ordinance will constitute unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. There being no other suitable location for an addition to the existing building.

And the application be approved in accordance to the application and plot plan on file subject to the following conditions:

1. Subject to any required State or Local permits.
2. Subject to a sewer permit or letter stating no permit is required.
3. Subject to the property being in compliance at all times with the applicable Zoning Ordinance of Warrick County.
4. Subject to all public utility easements and facilities in place.
5. Subject to a commercial driveway permit being obtained or a sign off stating no improvements required.
6. Subject to an Improvement Location Permit being obtained.

Richard Medcalf seconded and the motion unanimously carried.

Mrs. Rector stated that she would have their approval ready on Friday in the office subject to them having the State driveway permit or a letter from the State.

SPECIAL USES:

BZA-SU-06-28 – Applicant: Helen Geary Owners: Lee Geary, Helen Avery Geary, and Denise Lynn Avery.

Premises –Property located on the N side of Hadley Rd approximately 300' W of the intersection formed by Hadley Rd. and Eames Station Rd., Owen Twp., 5800 Hadley Rd.

Nature of Case – Applicant requests a Special Use, SU-24, for the district requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, Indiana, to allow a dog kennel not to exceed 30 dogs in an "A" Agriculture Zoning District. *Advertised in the Boonville Standard on December 7, 2006. Continued from December 18th meeting due to no quorum.*

Mr. Willis asked the applicants to come forward.

Helen Geary approached the podium.

Mr. Willis asked the Executive Director for a staff report.

Mrs. Rector stated they have all return receipts from certified mail of notice of this meeting to the adjacent property owners. She stated the applicant is requesting a Special Use "SU-24" to allow a Dog Kennel not to exceed 30 dogs. She stated the plot plan submitted shows 10 dog pens with fencing around the pens and some additional fencing in the front and rear of the residence. She stated the property is approximately 15.56 acres zoned "A" Agriculture with all surrounding property being zoned the same. She stated there is no flood plain on the property. She stated the pictures on the projector were submitted to the Planning Commission by Sam Roach, Hwy. Superintendent, on January 24, 2007. She stated it was reported to our office that Mrs. Geary was running a kennel at her residence a few months ago. She stated that the Animal Control officer called the office and asked if Mrs. Geary needed anything from the Planning Commission to run a dog kennel. She stated that he said he was going out there to inspect the property. She stated that he did go out there and told Mrs. Geary that she needed to come to our office and file for the Special Use and she came in that same day. She added this was a couple of months ago, that she started the process of getting her application filed. She stated that she had asked the Animal Control officer and the Highway Superintendent to submit any photos or information that they had since they did call the office and had told Mrs. Geary to come in and file the application. She commented that she just received these photos today. She stated she also received a copy of the County Commissioner's Ordinance regarding the controlled care of animals in Warrick County just prior to this meeting and she has not had time to review it. She stated she does not know if Mrs. Geary is in compliance with that Ordinance to report to the Board tonight. She stated, however her application that she made a few months ago is in order. She stated her application was continued at the last meeting due to no quorum being present.

Mr. Willis asked the applicant if she had anything to add to the staff report.

Mrs. Geary stated the pictures are misleading to start with. She stated that she can't see putting money into building a kennel to make improvements if she's not going to get the variance.

Mr. Willis asked if there were any questions by Board Members.

Richard Medcalf requested to go back to the picture showing the general appearance of the property. He asked if the area shown on the picture has anything to do with the dog kennel.

Mrs. Geary stated no. She stated the yard has been cleaned up two or three times since the pictures were taken. She stated everybody in the household walks out side and drops stuff. She stated that it's not in that much disarray now. She stated that she's done a lot of cleaning up on it. She stated she can't see putting money into building buildings and doing improvements on the kennel if she's not going to be able to have it.

Mrs. Rector stated that she did not know when those photos were taken.

Mrs. Geary stated that those pictures were taken on December 22nd and it was pouring rain and it had been raining all week.

Mr. Willis stated that he had been out there at 4:00 this afternoon and Eames Station Road is to the West of her property. He asked if she was at 5800 Hadley Road.

Mrs. Geary stated yes.

Mr. Willis stated that he counted four automobiles that he didn't see license plates on that were sitting in front of the house. He asked if those were her vehicles and if they were licensed.

Mrs. Geary stated no.

Mr. Willis stated that he had asked two questions. He asked if they were her automobiles.

Mrs. Geary stated they are her husband's.

Mr. Willis asked if they are licensed.

Mrs. Geary stated no, some of them are, the Oldsmobile has a license on it. She stated her son brought it up there to work on it and he couldn't fix it so he got a different car. She stated the little Acclaim has plates on it. She stated there was a red Chevy that has plates on it.

Mr. Willis asked about the maroon Voyager.

Mrs. Geary stated no.

Mrs. Rector asked how long Mrs. Geary has had the dog kennel on her property.

Mrs. Geary stated for ten years.

Mrs. Rector asked if she has been doing it at that property.

Mrs. Geary states yes.

Mrs. Rector asked how many dogs she has there now.

Mrs. Geary stated that she has 6 beagles, 4 Jack Russell Terriers, 2 Pekinese and a couple of Poodles in the house.

Mrs. Rector stated that it doesn't sound like she has the 30 dogs anymore.

Mrs. Geary stated that there are not 40 cats up there either. She stated that she fed them today and counted them and there were less than 20 cats. She stated that some of them are feral cats where they come up and eat the food but no one can get close to them and the Humane Society and the Animal Control people were supposed to come up there and catch those cats. She stated that she doesn't know how they can catch them because she's been bitten by cats so she's a little gun shy. She stated that he was supposed to come back up there and go through the cats. She stated they were also supposed to come back and get the rest of the dogs that are on the outside. She stated the only thing the Humane Society did was take the dogs that were worth something which were the Pekinese, the Dachshunds and one Poodle. She stated she'll admit that her numbers have gotten out of control but she had a plan to get rid of most of them at the first of the year. She stated that some of the ones they took weren't ones she was going to get rid of.

Mrs. Rector asked if the Humane Society bought the dogs.

Mrs. Geary stated the only thing the Humane Society bought were the puppies. She stated they came up to her property and pushed her around and screamed and threatened and said they were going to do all these things. She stated it was right before Christmas and she fell for it hook, line and sinker. She stated they came up there without a court order or anything.

Mrs. Rector stated this Board isn't affiliated with the Humane Society.

Mrs. Geary stated she knows but she's just saying they did come up there illegally and take the dogs.

Mrs. Rector stated she wanted to clarify what Mrs. Geary said after the staff report that she wasn't going to build any buildings until she got this special use approved. She stated that she's had a dog kennel there for ten years but now the applicant is going to build buildings to keep them in if she gets this. Mrs. Rector asked if that was their understanding.

Mrs. Geary stated that was correct, and she will be 65 in May and she will probably work two more years. She stated that she has a medical condition and if she doesn't keep busy she won't do anything. She stated she wants something to do in her retirement to make a little extra money. She stated she likes to fool with them. She stated that her dogs were well taken care of despite what everybody says.

Mr. Willis stated that there was a picture showing 5 or 6 people working there.

Mrs. Rector stated those people were from the adoption center.

Mr. Willis stated so that's not her employees.

Mrs. Geary stated no.

Mrs. Rector stated these pictures were taken at the adoption center.

Mr. Willis stated that he just wanted to know if she had employees.

Mrs. Geary stated she is the only one caring for the dogs.

Mr. Willis asked the applicant if she had anything else to add.

Mrs. Geary stated no.

Mr. Willis asked if there were any remonstrators here for or against this petition. There being none he asked if the Board had any questions.

Richard Medcalf requested for Mrs. Geary to explain how her operations work. He asked if she boards dogs.

Mrs. Geary stated no. She stated her purpose is to sell a few puppies.

Mr. Medcalf asked if she was breeding them and raising them.

Mrs. Geary stated yes.

Mr. Medcalf asked how many dogs she has.

Mrs. Geary stated there were 6 Beagles, 4 Jack Russells and a pair of old Pekinese outside. She stated the male Pekinese is about ten years old and the female is about 8. She stated that the female hid from the Animal Control and she talked them into not taking the male because of his age.

Mr. Medcalf stated that she has 12 dogs then.

Mrs. Geary stated yes. She stated that Animal Control was supposed to come out and get the rest of them and they didn't do it.

Mr. Willis asked if she has any dogs running loose.

Mrs. Geary stated that yes they get loose occasionally.

Mr. Willis stated that when he was out there were three dogs laying by the side of the road.

Mrs. Geary asked if they were Beagles.

Mr. Willis stated that one of them was a big black dog.

She asked if the other was a white boxer.

Mr. Willis stated yes and asked if those were her dogs.

She stated they belong to her son down the road.

Mr. Willis stated then they're her son's not Mrs. Geary's.

Mrs. Geary stated no. She stated that her Beagles got out today and she spent half the day running them down and putting them back in the pen.

Mr. Medcalf asked if she advertises these dogs for sale in the paper.

Mrs. Geary stated yes.

Mr. Medcalf asked if people come out to her place to buy them.

Mrs. Geary stated no they're not supposed to. She stated she delivers dogs to them either to their house or wherever they want to meet her. She stated they don't come up the house. She stated she did get in trouble over that and she kept telling the last ones that were up there but they

insisted on coming up. She stated they didn't want to meet her anywhere or come to their house with the dogs. She stated that she's had two people come up there this past year and both of them got her in trouble. She stated one lady stole a dog from them and that's what started this.

Mrs. Rector asked the applicant if she was aware of any state license that she's required to have for a kennel.

Mrs. Geary stated yes but she can't find them around here. She stated she didn't know anything about this until the last six months or so. She stated you can't get a kennel license now in Warrick County.

Mrs. Rector asked if it was the same situation through the State.

Mrs. Geary stated she didn't know, she doesn't think so. She stated her daughter checks on some of those laws for her in Indianapolis; she's an attorney up there so as far as she knows she's supposed to get individual tags from the township trustee but she doesn't think Owen Township has a trustee anymore. She stated she thinks he quit.

Mrs. Rector stated each township still has one.

Mrs. Geary stated that whenever it came time to get them from him she could never catch him or he didn't have them. She stated she doesn't know where you can get the license now. She stated she doesn't think there is anywhere to get it.

Mr. Dayvolt asked if he was mistaken or did she just say that she can not get a state kennel license.

Mrs. Rector stated that Mrs. Geary said she didn't know.

Mrs. Geary stated she doesn't know if the State issues kennel licenses, it all comes through the county from what she understands. She stated within the county that a person is in.

Mr. Willis asked for any other questions by Board Members.

Mr. Medcalf asked if she has any proposed plans for her kennel. He stated he knows she said she was going to build one but asked if she had any plans.

Mrs. Geary stated that she wanted to get a hold of the Humane Society and see what they wanted. She stated she wants to know what it is that they consider the right thing to do, the right way to do it. She stated that that's basically what she doesn't know and she needs to get with that. She stated she doesn't have very much to take care of and she's got time to go back there and work on the building. She stated she will get some plans drawn up for it. She stated she's not going to put out the effort until she knows she can do it. She stated that's what she needs to know from the County, just exactly what this kennel has to be to get her in line.

Mr. Medcalf stated that he's going back to his operations question. He stated he's sure all these dogs have to have shots and what not. He asked how all that is performed.

Mrs. Geary stated she doesn't understand what he means.

Mr. Medcalf stated she had so many dogs, how were they getting taken care of as far as shots that they needed.

Mrs. Geary stated that you just catch them and hand them to the vet and he gives them their rabies shot.

Mr. Medcalf stated that that's his question. He asked if she had a vet come out.

Mrs. Geary stated yes, John Mobley checked all the animals when he vaccinated them. She stated if there were any problems with any of them that he could see it was corrected. She stated some of the older dogs were having heart problems. She stated that is normal. She stated a dog gets to be 12 or 13 years old they start having problems.

Mr. Medcalf stated that that was his question, how they were being taken care of, if she was caring for them herself.

Mrs. Geary stated that her daughter that lives with her also helps her out quite a bit. She stated she likes to fool with them too. She stated they usually do the clipping of the Pekinese and the Poodle's fur in the summer and giving them a bath when they need it. She stated that she thinks dogs should be allowed to be dogs instead of four footed people.

Mrs. Rector asked if Mrs. Geary is on a septic system or Tennyson sewer.

Mrs. Geary stated she was on septic.

Mrs. Rector asked if she has had any discussion with the Health Department regarding having a kennel there.

Mrs. Geary stated no.

Mrs. Rector stated that that may be one of the conditions the Board may want to look at because in previous kennels the Health Department would have to approve them on the septic system and make sure it is the right size.

Mr. Gibson stated that he has a question for the President or it may be for the Attorney. He stated that it appears to him there's a possibility that they are in violation of the Agriculture zoning right now and if the Board allows this Special Use, doesn't the Board need a more detailed plan of what this kennel is going to consist of to allow the Special Use.

Mrs. Rector stated that right now before the Board is the application, she stated if she would be coming back in the future and says she's going to build a building, then she needs to ask for this to be continued and make it a part of the application and have a plot plan to show what she's going to do, or you need to look at the application that's on hand and if she changes it in the future amend it and bring it back before the Board.

Mr. Doll stated that he doesn't think it can be approved with the operation the way it is. He stated that it seems to him the application needs to be tied to whatever the building is going to be and the whole process then needs to be reviewed so that the Board can say yes, if she does this building we approve it, or no, the Board doesn't. He stated the point is well taken, he thinks there is a violation of the Agricultural and Conservation uses now.

Mr. Willis stated he thinks she does not have a very good business plan to start a business. He stated that she's been in business for ten years with dogs and maybe she wants to build a building maybe she doesn't and he's in agreement with the Executive Director and also the area of the violation of the Agricultural zoning. He asked if there were any more questions by the board. There being none he made a motion to table this so Mrs. Geary can get with the Health Department and find out if she is in violation with them. He stated when he was out there today he saw cars all over the place, wheels laying around. He stated it looked like it may be in violation as a scrap yard or a junk yard. He stated that he thinks they need to have their inspector go out and take a look and see if they're in violation of any of their codes right now before they can act on this. He made a motion to table BZA-SU-06-28 until the March meeting and have reports back from the Health Department and the other agencies. He stated the Executive Director can contact the other county agencies to see if they can give her a report.

Terry Dayvolt seconded and the motion unanimously carried.

Mrs. Rector stated to be clear, Mrs. Geary needs something from the Health Department and from Animal Control, and the Board will send the zoning inspector to take photographs to see if she is in violation of any of the zoning codes. She added if she is, staff will let her know and then go from there.

Mrs. Geary asked what she means by violations of zoning codes.

Mrs. Rector stated there are definitions such as a junk/ salvage yard that is any land, property, structure, building or combination there of, where junk is stored or processed. She stated it includes, but is not limited to, wrecked or inoperable vehicles, parts of vehicles, scrap iron, other metals, wood, papers, rags, tires, bottle etc. She stated that it may be that she is in violation of this by some of the automobiles and some of the items on her property that may need to be cleaned up. She stated she will send the zoning inspector out there who will take pictures and bring them to her and then she'll notify Mrs. Geary and the Board Members if something needs

to be done. She stated that if she wants to come in to the office she can go over these things with her. She stated that she will need to come back before this Board at Feb. 28th, 2007 at 6:00pm. She stated that a kennel is 4 or more weaned dogs. She stated that is our definition of a kennel that requires you to have the Special Use. She stated if she no longer has that or no longer wants this then she needs to write a letter to withdraw the application and then there will be an inspection of her property and show that she's no longer in violation.

Mrs. Geary asked to clarify that she would have to be down to four dogs without the Special Use.

Mrs. Rector stated yes.

BZA-SU-07-01 – Applicant: Rick Woehler, Owner: Della Woehler

Premises – Property located on the E side of Libbert Rd. (W 900) approximately 1600'N of the intersection formed by Libbert Rd. (S 900) and Oak Grove Rd. (S 300), Lot 3 in Westwood Subdivision Section A, Ohio Twp., 2722 Libbert Rd.

Nature of Case – Applicant requests a Special Use, SU-12, for the district requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, Indiana, to allow a home occupation in an "R-1" Single Family Zoning District. *Advertised in the Boonville Standard on January 11, 2007*

Mr. Willis requested the applicants step forward.

Rick Woehler approached the podium.

Mr. Willis asked the Executive Director for a staff report.

Mrs. Rector asked Mr. Woehler if his mother was present and if she is the owner of the property.

Mr. Woehler stated that is correct.

Mrs. Rector stated she wanted to let the record reflect that the owner is present. She stated that they have all return receipts from certified mailings to the adjacent property owners. She stated the applicant is requesting a Special Use, SU-12, to allow a home occupation of an office for a Residential Design Firm. She stated the residence is 1592 sq. ft. and the proposed office space within the residence is a 10'8" x 11' area being 118 sq. ft. and occupying approximately 7.42% of the first floor. She stated the maximum amount allowed for a home occupation is 25% of the first floor area. She stated the property is lot 3 in Westwood Subdivision Section A, being approximately .216 acres zoned "R-1A" Single Family Dwelling with properties to the North, East and South zoned the same with residences and the property to the West is zoned "A" Agriculture with a residence. She continued the applicant states on the application that he draws custom home plans and would like to work out of his home. She added that the Zoning Ordinance states for home occupations to be approved they must meet the following conditions: no identifying or business sign shall be erected or placed on any site for which an SU 12 has been granted by the Board of Zoning Appeals; except for the shipment and receipt of goods, products or items necessary for the SU-12, the use shall not be visible from the exterior of the premises; the maximum time for which the first SU-12 may be granted is two years from the date of approval, thereafter, a subsequent grant of a SU-12 for the same parcel property for the same use shall be for such length of time as approved by the Board of Zoning Appeals; no person or persons may be employed in the SU-12 home occupation at the site other than the resident (or residents) of the site for which the SU-12 has been granted; the use may not be varied from the specified home occupation identified by the applicant for which it is granted. She stated that those conditions of the Ordinance should be within any approval and the application is in order.

Mr. Willis asked the applicant if he had anything to add to the staff report.

Mr. Woehler stated the only thing he wants to do is start his business without having a lot of overhead where he can start drawing his plans working out of his home using the computer. He stated he just wants to get started there. He stated he does intend once he gets it up and running, provided he's successful, he'd like to get an office somewhere where he can have clients visit him, but at this point its his residence, he doesn't want people coming there. He stated he will go to builder's offices or people's homes to meet with them.

Mr. Willis asked if he was planning on having any clientele come to his house.

Mr. Woehler stated he does not plan on that.

Mr. Willis asked if he would foresee getting very many deliveries by common carrier other than Fed-Ex or UPS or somebody of that nature.

Mr. Woehler stated he picks up his paper for his big plotter so there wouldn't be any extra packages.

Mr. Willis asked for any other questions by Board Members. There being none he asked for any remonstrators for or against this petition. There being none he asked for additional questions by Board Members. He asked how long the applicant has been drawing plans.

Mr. Woehler stated he's lived in the tri-state area for 14 years. He stated he started off working for Kight Home Center and they're drafting department and then he worked for Ron McGillam for 8 years and then he worked for John Elper's homes for a year.

Mr. Willis asked if there were any other questions by Board Members. There being none he entertained a motion.

Steve Gibson made a motion findings of fact be made as follows:

1. The use is deemed essential or desirable to the public convenience or welfare.
2. The use is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The use will not be detrimental or injurious to the character of the development of the immediate neighborhood.
4. The use will not change residential appearance of the home.

He stated the application be approved in accordance to the application and plans on file, subject to the following conditions.

1. Subject to Special Use, SU-12, granted to allow a home occupation of a Residential Design Business not occupying more than 25% of the first floor area.
2. Subject to any required Federal, State, or Local permits being obtained.
3. The use does not go with the real estate and should the applicant no longer be the occupants, the use is no longer permitted.
4. Subject to the property being in compliance at all times with the applicable zoning Ordinances of Warrick County.
5. Subject to no identifying or business sign being erected or placed on the property.
6. Subject to the use not being visible from the exterior of the premises, except for the shipment and receipt of goods, products or items necessary for the SU 12.
7. Subject to the maximum time period of two years from the date of approval.
8. Subject to no person or persons being employed other than the resident (or residents) of the property.
9. Subject to the use not varying from the specified home occupation identified by the applicant for which it is granted.

Eric Stahl seconded and the motion unanimously carried.

Mrs. Rector stated the approval will be done by Friday. She stated the Applicant can pick it up or she can mail it to him.

The applicant stated he would pick it up.

BZA-SU-07-02 – Applicant & Owner: Boonville – Warrick Co. Public Library by Lois Aigner, Director

Premises – Property located on the E side of SR 161 (Main St.) approximately 100’ S of the intersection formed by SR 161 (Main St.) and Cherry Street, Lot 11 in Padgett’s Addition to the Town of Tennyson, Skelton Twp., 318 N Main Street.

Nature of Case – Applicant requests a Special Use, SU-15, for the district requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, Indiana, to allow a library in an “R-1A” Single Family Zoning District. *Advertised in the Boonville Standard on January 11, 2007.*

Lois Aigner approached the podium.

The Chairman requested a staff report.

Mrs. Rector stated they have all return receipts from certified mailing of notice of this meeting. She stated the applicant is requesting a Special Use, SU-15, to allow a Library. She stated the property is Lot 11 in Padgett’s Addition to the Town of Tennyson approximately .16 acres more or less zoned “R-1A” Single Family Dwelling. She stated the properties to the North, East and South are zoned “R-1A” Single Family Dwelling with residences and property to the West is zoned “A” Agriculture with an elementary school. She stated the applicant did meet with the Commercial Site Review Committee on September 12, 2006, and was told they would need to file a Special Use to allow a Library. She continued that the County Surveyor stated that no drainage plans were needed and the driveway will be off of SR 161 (Main St.) and will require a permit from the State. She stated it was also determined that it would require 1 parking space for every 400 sq. ft. which would be 5 spaces and there are 7 parking spaces shown on the plot plan. She stated there is no flood plain. She stated they talked to Lisa Wyatt, Town of Tennyson Clerk Treasurer and the Town Board is in favor of the library. She stated Eric Stahl is a member of that board and he can corroborate that position.

Mr. Willis asked if the applicant had anything to add to the staff report.

Ms. Aigner stated that they’re really looking forward to developing this structure. She stated they’ve had library service in Tennyson since 1993 and they’ve been operating out of a temporary portable classroom that was donated to them from the Warrick County School Corporation and now they have this property to make a permanent branch library right across the street from the elementary school. She stated they’re excited about this project.

Mr. Medcalf stated they’re doing a fine job of cleaning it up. He asked if there was any possibility of them getting any additional property out there.

Mrs. Aigner stated she has the address of the man who owns the property North on Main and Cherry that they’re planning on contacting to see if he might want to sell. She stated that she doesn’t feel like he will but they don’t know. She stated that we’re in the process of weighing the pros and cons of that.

Mr. Medcalf asked if this was going in where the house burnt.

She stated yes, where the Geary’s used to own. She stated there was a cistern and a basement and it was quite a mess.

Mr. Willis asked if there were any other questions by Board Members. There being none he asked for any remonstrators for or against this petition. There being none he asked for further questions by Board Members. There being none he entertained a motion.

Richard Medcalf made a motion findings of fact be made as follows:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be detrimental or injurious to the character of the development of the immediate neighborhood.
4. The USE will be beneficial to the community.

And the application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to an Improvement Location Permit being obtained.
2. Subject to any required Building Permit from the Warrick County Building Department.
3. Subject to the applicant obtaining any required sewer tap.
4. Subject to the property being in compliance at all times with the applicable zoning Ordinance of Warrick County.
5. Subject to all public utility easements and facilities in place.
6. Subject to a State Driveway Permit being obtained.

Mr. Willis seconded and the motion unanimously carried.

Ms. Aigner thanked the Board and stated the community would be very proud of this.

Mrs. Rector stated her approval would be ready for her to pick up on Friday.

OTHER BUSINESS:

Mrs. Rector stated she wanted to welcome the new Attorney Mr. Doll and their new member Mr. Stahl on the board. She stated that she was glad he could be here for their first meeting.

Mr. Willis stated he too wanted to welcome the new Attorney and the new members to the Board of Zoning Appeals. He stated the Board has had some trouble with not being able to function for a lack of a quorum. He stated it is very embarrassing for him and for Mrs. Rector to tell the people that they don't have enough people to hear what they have to say and what's important to them so please make every endeavor to be here. He stated he knows things will come up but last year they had to postpone 4 meetings and had a couple of other meetings that they didn't have because they didn't have anything on the agenda but those 4 meetings that they had to postpone were important to the people making the petition.

Mr. Gibson stated he agreed with Mr. Willis whole heartedly and that if someone accepts this position then they should make every effort to be here. He stated that he has already in advance let the office know that he probably will not be in attendance next month due to some surgery he has to have in regards to the things that happened last year. He stated he has let them know in advance. He stated he does agree that every attempt needs to be made to be here. He stated it is kind of embarrassing when it doesn't happen.

Mr. Medcalf stated that he has a trip planned over next month's meeting that has been scheduled for a long time and he too will not be able to make it. He stated that he also agrees with Mr. Willis how important it is to be at the meetings, this unfortunately was a scheduling conflict he couldn't avoid.

Mr. Willis stated Don Mottley will be questionable.

Mrs. Rector stated to count on Don not being able to make it. She stated that we've got Mr. Dayvolt, Mr. McCune, Mr. Stahl, and Mr. Willis. She stated as long as they have four they should be okay.

Mr. Medcalf stated he agrees with Mr. Willis that they need to serve the people. He stated if there was any way he could skip the trip he would but he can't. He asked if they perceive a problem they're not going to have a quorum, what can they do about it.

Mrs. Rector stated that its good to say it ahead of time because the filing deadline for next month is February the 5th, so if they knew they weren't going to have a quorum, the office would not take any applications for that meeting, there just wouldn't be a meeting and they would schedule

them to go to the following meeting. She stated if the Board Members do know they're not going to be able to make it ahead of time then some of this can be avoided. Mrs. Rector stated that if it's advertised and notices sent to the adjacent property owners they have to do like they've done before. She stated whoever shows up is there and then the Board has to apologize and tell them to come next month.

Mr. Stahl stated that he doesn't always know when he's going to be at the meeting because of his work schedule. He stated he's gone in at 3 in the morning the last two mornings and he's got to be there at 3 tomorrow morning and he hasn't been to bed since 1:30 this morning.

Mr. Willis stated if they know they're not going to be able to have a quorum then the Board Member's don't have to show up and the county doesn't have to pay them a per diem which would save the County money because if they show up, they get paid whether they open the meeting or not. He stated if there's been a notice sent out then they have to show up, but if they can avoid sending the notice out if they know ahead of time there won't be a quorum, then it's better for everybody involved.

Mr. Stahl stated that he should be able to make quite a few of the meetings. He stated if he knows ahead of time that he won't be able to make it he'll call the office.

Mr. Willis asked if Mrs. Rector could get the minutes and agenda out a little earlier.

Mrs. Rector stated that it's according to if she's had time to read them and get them corrected and say they can go out. She stated she tries to get them out on Friday and it didn't get done this time. She stated the girls now have reminders popping up on their computers and if they get them done the week before then they'll send them out.

Mr. Willis stated that it's not so much the minutes but the agenda he would like to see earlier.

Mr. Medcalf stated he doesn't think he gets them by email.

Mrs. Rector asked if he had an email account.

Mr. Medcalf asked Mrs. Rector which account she wanted.

Mr. Willis stated for the Board Members to make sure Mrs. Rector has their email addresses.

Mrs. Rector stated that she emails them to the Board Members if she possibly can.

Mr. Gibson asked when Mr. Willis made a motion to approve the minutes, why he only approved September's minutes.

Mr. Willis stated he did only make a motion to approve the September minutes because the other meetings were the ones where they didn't have a quorum. He stated he wanted to approve each one individually not lump them all together.

Mrs. Rector asked if he wanted to amend his motion to include all the minutes.

Mr. Willis states yes, he would amend his motion to accept all the previous minutes to tonight.

Mr. Gibson seconded and the motion unanimously carried.

ATTORNEY BUSINESS:

Mr. Doll stated the Special Use 15, referring to the library in Tennyson, needs to be defined differently next time they're making amendments to the Ordinance. He stated that it only deals with colleges, universities and schools. He stated there is no Special Use in Warrick County for a library.

Mrs. Rector stated that she knows and that's why she had to make the determination similar to SU-15. She stated she was glad he brought it up.

Mr. Doll stated that he figured they had classes there, reading schools, classes for the kids so technically it would be a school. He stated if you make recommendations periodically to the Commissioners for changing the Ordinance, SU-15 ought to also include a library because this

probably isn't the last library that Warrick County will ever build and it ought to be fixed so in the future it's clear.

Mrs. Rector stated that she has 5 amendments to the Ordinance that she's advertising so she'll put that in there tomorrow. She stated also since it was brought up, the Planning Commission held a hearing on some changes of the Zoning Ordinance a couple months ago. She stated the County Commissioners approved them today. She stated Mr. Doll has them in his Ordinance. She stated she will give the Board Members a new Ordinance. She stated on the Warrick County website are the ones that have changed and they can just print out the new pages. She stated if any of the Board Members can't do it to let her know and she'll send them the new ones to put in their book. She stated that they can also just download the whole thing again and print it out.

Mr. Doll stated concerning the continuing education that was talked about that he volunteered to do as Council; all lawyers have to have continuing classes, 36 hours every 3 years, a minimum of 6 hours in any single year. He stated the classes concerning zoning and land use typically occur in May. He stated he will be going and getting the current information about any changes that the Courts of Appeals have done and what the legislature has done with the zoning besides the advance sheets that they'll get from the legislature when they change the laws. He stated he may give them a brief report in June if there are any hot topics or something the Board needs to be worried or concerned about.

EXECUTIVE DIRECTOR:

None.

OTHER BUSINESS:

None.

There being no other business Larry Willis entertained a motion to adjourn the meeting.

Steve Gibson made a motion. Richard Medcalf seconded and the motion unanimously carried.

The meeting adjourned at 7:05 pm.

Larry Willis, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Area Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of said Board at their monthly meeting held January 24, 2007

Sherri Rector, Executive Director & Secretary